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MARYLAND'S ADOPTION OF THE FEDERAL CONSTITUTION

II.

THE Maryland convention met in Annapolis,¹ on Monday, April 21. It consisted of seventy-six members, of whom two never sat on account of sickness. They were both Federalists. Only three counties, Anne Arundel, Baltimore and Harford, sent Anti-Federal delegations, though a number of the Federal members voted with the minority from time to time, in a spirit of compromise. Most of the Eastern Shore delegates were absent on the first day of the convention, while some of the Baltimore and Harford County men did not arrive until Thursday, April 24.

The assembly was a representative and able one. The small Anti-Federalist minority had among its numbers two delegates to the Philadelphia Convention, Mercer and Martin; Samuel Chase, "the flame of fire" who signed the Declaration of Independence; his able kinsman, Jeremiah T. Chase; William Paca, another signer of the Declaration of Independence, and an able statesman; and William Pinkney, who became so famous as a lawyer and an orator. The Federalists were no less ably led by "Aristides," Alexander Contee Hanson, who was one of the best of Maryland lawyers; James McHenry, who was to become Washington's Secretary of War; Col. William Richardson, Robert Goldsborough, William Hemsley, Col. Edward Lloyd, and Peter Chaillé, from the Eastern Shore; and by Col. Moses Rawlings, of Revolutionary fame, Richard Potts, formerly a member of the Continental Congress, Thomas Johnson, the first governor of the state, and Thomas Sim Lee, who was one of his successors, from Western Maryland.²

¹The proceedings of the convention are printed in the *Documentary History of the Constitution* (issued by the Department of State), II. 97-122. The address of the minority is printed in Elliot's *Debates on the Federal Constitution*, II. 547-556. It is entitled "A Fragment of Facts, disclosing the conduct of the Maryland Convention, on the adoption of the Federal Constitution." The address of the majority was prepared by A. C. Hanson ("Aristides") but was never published. It is in manuscript among the Madison papers in the Department of State at Washington. The Maryland Historical Society's files of the Annapolis *Gazette* for April 24 and May 1, 8, 15, 22; of the Baltimore *Gazette* for April 29, and of the *Maryland Journal* for April 29 and May 2 contain valuable information relative to the convention.

²Daniel Carroll, writing to Madison on May 28, 1788, said that the members of the convention were men of abilities and fairness of character and that Chase had said that their weight in the community was enough to carry the government.

The convention organized by the unanimous choice of George Plater of St. Mary's County as president, and by electing a clerk, assistant clerk, messenger, and door-keeper. A committee of elections was appointed, consisting of Messrs. Johnson, Barnes, J. T. Chase, Done, and Faw,¹ four of whom were Federalists. After resolving to sit from 9 A. M. to 3 P. M. each day, "for considering the proposed plan of Federal Government," the convention adjourned. On Tuesday, the committee of elections made a report, which was accepted, apparently without dispute. A simple code of rules was adopted. The sessions shall be open. Members must be present, within half an hour of the time of opening the sessions. The minutes of the preceding day shall be read at the beginning of each day's session. Members shall be referred to in debate by name. Questions of order shall be decided by the president without debate, but he may refer the questions to the house, which shall decide also without debate. "No member speaking shall be interrupted, but by a call to order by the President, or by a member through the President." The president shall put any motion which has been made and seconded, and either he, or any other two members, may require a motion to be reduced to writing. A member offering a motion may withdraw it, at any time before a vote is taken. Such were the simple rules, under which the convention acted.

As most of the members were now on hand and the organization was perfected, the convention settled down to serious business. The "proposed plan of Federal Government for the United States" was read the first time. Before the convention met, the Federal majority had held a caucus and agreed "that they and their constituents had enjoyed abundant leisure and opportunity for considering the proposed system of a Federal government, that it was not probable any new lights could be thrown on the subject, that (even if it were) the main question had already, in effect, been decided by the people in the respective counties, that, as each delegate was under a sacred obligation to vote conformably to the sentiments of his constituents, they ought to complete that single transaction for which they were convened, as speedily as was consistent with decorum. A prompt determination in this State, they conceived, might have a happy influence in other States and they expressed a desire that all argument in favor of an indispensable measure might be omitted. In short they esteemed nothing wanting except the mere forms of a ratification." In conformity to these ideas, every proposition to bring about discussion by parts was rejected. The

majority felt that their power was too limited and the crisis was too dangerous to permit the separate provisions of the Constitution to be considered by the convention. Virginia, where the battle was close, waited for their verdict. So, after the first reading of the Constitution, the convention resolved that it would "not enter into any Resolution upon any Particular Part of the proposed plan of Federal Government for the United States: But that the whole thereof shall be read the second time, after which the Subject may be fully debated and considered." It was "clearly understood" that on the "grand question," each member "might be free to speak, as often as he should think proper." The majority maintained that they showed no undue haste; most of the week was spent in waiting for the absent minority members, some of whom did not come until Thursday, or "in most patient attention to objections which were familiar to almost every auditor."

After the debate, it was decided, the president should "put the question that this Convention do assent to and ratify" the Constitution, on which question the yeas and nays should be taken. The convention then read the Constitution for the second time and adjourned.¹

On Thursday morning, the debate began and Samuel Chase came to the convention. His presence added fresh life to the minority. On May 2, Washington wrote to Madison² that he had learned that Mr. Chase "made a display of all his eloquence. Mr. Mercer discharged his whole artillery of inflammable matter and Mr. Martin did something, I know not what, but presume with vehemence, yet no converts were made—no not one." The majority relied on their numbers and took little part in the argument. They felt that no valuable purpose could be answered by protracting the mere formality of a ratification and so "remained silent to the arguments of the minority." After Chase had spoken a while,³ he

¹ On Tuesday, we learn from the minority's address, the following proposed rules of order had been rejected by the convention: "When a motion is made and seconded, the matter of the motion shall receive a determination by the question, or be postponed, by general consent, or the previous question, before any other motion shall be received;" and "Every question shall be entered on the journal; and the yeas and nays may be called for, by any member, on any question, and the name of the member requiring them shall be entered on the journal."

² *Writings*, XI. 259. [Mr. Ford prints "comments" in the passage next quoted; but Mr. Bancroft, *Constitution*, II. 467, has "converts," and so has the catalogue of the McGuire sale, p. 41; "converts" seems the more likely reading. ED.]

³ Bancroft, *History of the Constitution*, II. 282, quotes from Chase's MSS. notes: "The powers to be vested in the new government are deadly to the cause of liberty and should be amended before adoption. Five States can now force a concession of amendments, which, after the national government shall go into operation, could be carried only by nine."

sat down, declaring that "he was exhausted and would resume his argument on the following day."

The hour of adjournment had not come and the convention waited for some other speaker. None arose, however, and, after waiting a "competent time," the convention adjourned until after dinner, that, by another meeting on that day, "further procrastination" might be prevented. Should the minority not "proceed with their objections," the majority intended to have "the business concluded immediately." They maintained that, although it was "proper to give each member an opportunity to declare his sentiments," it "could not be expected that the whole body should await the pleasure of a few individuals."

When the convention came together again at 4:30 P. M., William Paca arrived and took his seat. He rose and said "that he had a variety of great objections to the Constitution in its present form, and that, although he did not expect amendments to be made the condition of ratification, he wished them to accompany it, as standing instructions to our representatives in Congress; that under an expectation of obtaining amendments, he might vote for the Constitution; that having just arrived, he was not ready to lay his amendments before the House, but asked for permission to prepare his propositions and, in the morning, lay them on the table for consideration of the members; that he wished the amendments to be considered before the ratification, because he did not imagine that after it the convention would remain a sufficient length of time."

The amiable Johnson arose at once and said "that the request was candid and reasonable and that the gentleman ought to be indulged. In order that nothing further might be done he moved to adjourn till the morning." This was done at once. The Federalists maintained that the adjournment was only to be taken as implying that they were willing to "give time for reflexion on Paca's proposal."

On Friday morning, Paca rose and informed the president "that, in consequence of the permission of the house given him the preceding evening, he had prepared certain amendments¹ which he would read in his place and then lay on the table." At this Paca was interrupted by George Gale of Somerset County, who had not been present on the preceding afternoon and who supposed Paca to be out of order. Technically he was out of order, as the question was "that this Convention do assent to and ratify the proposed Constitution." Paca remonstrated warmly against the indecency wherewith he alleged that he had been treated, but could not

point to any express permission to introduce amendments. One after another, members from each of eleven counties,¹ and from each of the two municipalities rose and declared for themselves and their colleagues that they "were under an obligation to vote for the government." The form of words varied, but the thought was the same. Several added that they were to ratify, as soon as possible, and do no other act, and that after ratification their power ceased. As to amendments, almost all declared that "they considered themselves as having no authority to propose, in behalf of their constituents, that which their constituents had never considered and concerning which their constituents could of course have given no directions." Paca's amendments having been refused, the minority continued to state their objections until Saturday afternoon. The majority were "repeatedly called on and earnestly requested to answer the objections, if not just," but they "remained inflexibly silent." They defended their silence, by saying that they were instructed to vote for the Constitution and that the minority was equally instructed to vote against it. Both were bound by their relation to their constituents and it was "hardly probable that at this late period any argument contained in a public harangue could have flashed conviction on the minds of the minority."

When the vote for ratification was taken, the house stood 63 to 11. In the negative were all the delegates from Anne Arundel, Baltimore and Harford counties, except Paca, who was true to his previously expressed purpose and voted *aye*. On Monday, the same sixty-three delegates who had voted in the affirmative, signed the following ratification: "We the Delegates of the people of the State of Maryland having fully considered the Constitution of the United States of America reported to Congress by the Convention of Deputies from the United States of America held in Philadelphia on the seventeenth Day of September in the Year Seventeen hundred and eighty seven of which the annexed is a Copy and submitted to us by a Resolution of the General Assembly of Maryland in November Session Seventeen hundred and eighty seven do for ourselves and in the Name and on the behalf of the People of this State assent to and ratify the said Constitution."

The Federalists declared that, in the convention, the "greatest Dignity as well as Decorum was exhibited. . . . The Minority was heard with candid and profound attention. Their Talents and

¹ Frederick, Talbot, Charles, Kent, Somerset, Prince George's, Worcester, Queen Anne's, Dorchester, Calvert, and Caroline. *Vide Annapolis Gazette*, May 8. The delegate from that city did not say that Annapolis was against amendments, but that the matter had not been submitted to the people and therefore the city delegates had no right to act in the matter.

Abilities were amply displayed and, but from the clearest Impressions of the best of Causes, they might have been more successful." The *Journal* rises to a most stupendous height of bombast: "Maryland independent in her Resources—superior by the Excellence of her political and civil Institutions to the Rage of internal Commotion—Maryland the informed, the benevolent, and the wise, who can bestow Advantages without an Equivalent but in the Consciousness of advancing Public Felicity, has opened her Bosom to the Embraces of her sister States, has erected the Seventh Pillar upon which will be reared the glorious Fabric of American Greatness, in which Fabric the Rights of Mankind will be concentrated as to their native Home. O, May the happy Moment soon arrive, when the august Temple of Freedom shall be supported by thirteen Pillars, with its gates unfolded to every Part of Creation, may its Duration be as permanent as Time and its Period engulfed only in the Bosom of Eternity."

After the vote to ratify, on Saturday afternoon, Paca rose and again proposed his amendments, declaring "that he had only given his assent to the government, under the firm persuasion and in full confidence that such amendments would be peaceably obtained, so as to enable the people to live happily under the government, that the people of the county he represented (and that he himself) would support the government with such amendments, but without them his constituents would firmly oppose it, he believed even with arms."

The majority "did not deem the proposed amendments necessary to perfect the constitution," but some of them thought that though, in their conventional capacity, they could not propose amendments in behalf of the people, they might, in their private capacities, gratify the wishes of the minority and make certain propositions to the people. "Aristides" thought this "novel distinction" between the convention, "acting in virtue of its delegated powers," and its members as a body, "acting agreeably to the common right of citizens," was a false one, but it "was admitted without reflexion," after a "short and perplexed debate." He argued that, until the convention dissolved, the members would not act nor "be supposed acting in their private character, and that any proposition to go from them as private individuals, should be made after dissolution of the body." The convention, however, did not perceive the entanglement into which they were falling and passed the following resolution, by a vote of sixty-six to seven: "Resolved that a committee be appointed to take into consideration and report to this house on Monday morning next, a draught of such amendments and alterations, as may be thought necessary in the proposed

Constitution for the United States, to be recommended to the consideration of the people of this State, if approved of by this Convention." Thirteen members were placed on the committee. Of these Thomas Johnson, Thomas Sim Lee, and Richard Potts from Frederick County, Robert Goldsborough from Dorchester, James Tilghman from Queen Anne's, Alexander C. Hanson from Annapolis, William Tilghman from Kent, James McHenry from Baltimore Town, and George Gale from Somerset were Federalists; while William Paca from Harford, and Samuel Chase, Jeremiah T. Chase and John Francis Mercer from Anne Arundel were Anti-Federalists. When we consider the small number of the minority, we perceive that they were not treated ungenerously in forming the committee. We may also note, that no heed was paid to county delegations in forming it.

Paca's proposed amendments were referred to the committee, and the convention adjourned until Monday. It seems that this plan of proposing amendments to the people was favored by some amiable Federalists like Johnson, who "imagined all opposition in Maryland would cease thereby." That Saturday evening Hanson was busy. He thought that no amendments were necessary and that the convention had been thrown into embarrassment. He saw the other Federal members of the committee and they mutually "communicated to each other their ideas and considered the necessity of accommodating themselves to a disagreeable situation; resulting from an earnest and perhaps unparalleled disposition in a great representative body to gratify and conciliate a few men opposed to the general sense of the State. They thought nothing contained in the propositions to the people should hold out any idea of the propriety of changing the Constitution in any essential part, although they might go so far as to explain it agreeably to what its friends thought was the true construction and to restrain Congress from doing, what on a true construction it has no power to do, or which if it had, its own policy would not permit it to perform. They hoped that, by going thus far, the Convention would be extricated from its embarrassment and, perhaps, the enemies of government would desist from their opposition."

On Sunday morning, the committee met and considered Paca's amendments. After two of the propositions had been approved, Hanson¹ said, "As they had met on a principle of conciliation, he wished, before they went further, an explanation might take place, as there had been doubts entertained from general expressions in

¹ He does not name himself, but I think his narrative shows clearly that he was the man.

the plan of government, which were supposed by some men to give Congress discretionary powers, and as some explanation of these might tend to quiet apprehensions, he should probably agree to such amendments, as might have that effect without endangering the Constitution, provided they should go forth as the act of private individuals and provided no others be attempted, than should be agreed to in this Committee. He wished it to be understood that he should agree to no more than the two already acceded to, except *sub modo*." No direct answer was made to this and Hanson voted against all subsequent amendments. Chase stated that "the committee ought to proceed and endeavor to agree to the amendments which the Constitution requires and that, if they could not agree, each man would be at liberty to take in the convention, or any other place, the part he might think proper." But Hanson thought it was the wish of all to report something, which all might maintain in convention. On Monday morning, the committee met again and found that they had agreed to report thirteen amendments based on Paca's, and that they had rejected fifteen more. The majority now insisted that, if they should support the thirteen amendments agreed to, "both in their public and private characters, until they should become a part of the general government," the minority should lay before the convention no amendments, "except those the Committee had so agreed to." The minority agreed to do this and to "give all their assistance to carry into execution" the new government, if the committee would add to the thirteen amendments three more, which they had previously rejected. These three amendments provided that the militia, without the consent of the state authorities, or unless selected by lot, or voluntarily enlisted, should not be marched beyond the limits of an adjoining state; that Congress might not interfere in elections of its members, unless a state should fail to provide for them; that a state might pay in a lump sum, within a limited time after the levy, direct taxes levied on its citizens. If the committee would not approve these three propositions, they desired to take the sense of the convention upon them and would hold themselves bound by the decision of that body. The committee refused to accept the three propositions, by a vote of eight to five, Johnson voting with the four Anti-Federalists.¹

One of the majority, probably Hanson, had brought in to the committee an address to the convention, to be prefixed to whatever amendments might be proposed.² It stated that the authority of

¹ He had prepared and submitted it to the majority before the Sunday meeting.

² All these amendments are to be found in Elliot's *Debates*, II. 550-553. The three which the minority especially urged read as follows:

1. That the militia, unless selected by 'ot, or voluntarily enlisted, shall not be

the convention had expired with the ratification ; but, "as it is essential to the proper administration of government, that it possess the approbation of every part of the community," the members have brought in propositions, "which may tend to quiet the apprehensions of those who think additional security is needed." They hold themselves "incompetent, till there had been experience of the operation and the inconveniences, to ascertain the defects with precision and certainty and they knew not what would please their constituents." They moreover do not agree concerning the alterations, and therefore do not give a decided opinion upon any of them, but point the "serious attention and mature deliberation" of the convention to this subject. If any alterations should suit the convention, the committee wish that the former body would put them "in constitutional train to make them part of the Constitution." No one objected to an address, but Chase said that, although he objected to a part of this and it was not regular, yet it was a matter of little importance, provided it should be so worded as to give no offence and cast no reflection. After the rejection of the three propositions, which seem to have been their ultimatum, the minority objected to the address, "as no such matter had been referred." The chairman of the committee, who was Paca himself, suggested that the committee might return to the house and apply for authority, when they reported their approval of the thirteen amendments. The majority feared that this would defeat their purpose of making the propositions merely for the consideration of the people, without giving the weight of the convention's opinion in behalf of them as necessary, save for conciliation. Consequently, nothing was done in the matter.

Some of the majority now said "that, in acceding to any propositions which had been made, they had constantly kept in view the address, which was to accompany them, for the purpose of explaining that they were submitted on the principle of accommodation and with a view to quieting apprehension, and that they never once conceived amendments necessary to perfect the plan of Government and that they would not have voted for amendments to be held out in that light."

marched beyond the limits of an adjoining state, without the consent of their legislature or executive.

2. That the Congress shall have no power to alter or change the time, place, or manner of holding elections for Senators or Representatives, unless a state shall neglect to make regulations, or to execute its regulations, or shall be prevented by invasion or rebellion ; in which cases, only, Congress may interfere, until the cause be removed.

3. That, in every law of Congress imposing direct taxes, the collection thereof shall be suspended for a certain reasonable time, therein limited ; and on payment of the sum by any state, by the time appointed, such taxes shall not be collected.

The minority insisted that, "as the Committee had agreed to a number of propositions," they ought to be signed and reported. To this the majority replied, that "if any member had voted on a misconception of the footing on which the propositions were to go to the people, he should, on finding his mistake, have an opportunity of retracting and the propositions ought to be reconsidered. . . . After going through them one by one, it was proper to take a vote upon the whole together. The committee did not before seem fully to comprehend each other. On the principle of accommodation, the expedient of submitting propositions to the people might be proper, providing that an accommodation did really take place. A great deal of mischief might result if, after both sides had agreed to certain propositions on that principle, other propositions were to be made on which men would be divided. If after the committee had concluded, the convention were to go on without hesitation, to consider amendments to every part of the Constitution, nothing but confusion could follow, and it would be far preferable to abandon the scheme of accommodation and make no report." Chase then said, positively, that "he should think himself at liberty to propose to the Convention whatever he might esteem proper, in addition to the report, and to oppose anything it might contain."

While this argument was proceeding, the convention was growing impatient.¹ A resolution was adopted "that the Proceedings of this Convention to the Vote for assenting to and ratifying the proposed Plan of Federal Government for the United States and the Yeas and Nays be fairly engrossed, signed by the President and attested by the Clerk and Assistant Clerk, and that the President request the Governor and Council to transmit the same Proceedings, together with the ratification of the same Federal Government, subscribed by the Members of this Convention, to the United States in Congress assembled."² It is clear that this motion was passed so that any amendments, which might be reported by the committee and adopted by the convention, should not be reported to Congress, or the other states, but to the people of Maryland alone. The minority appear to have made no opposition to this motion, which agreed with the general understanding of the members.

They repeatedly called on the committee to return, and that body, finding it impossible to come to an agreement, finally rose, without a final vote being taken by the chairman. On returning to

¹ A motion was made but seemingly not passed "to consider of no propositions for amendment of the federal government, except such as shall be submitted to them by the Committee." Elliot's *Debates*, II. 554.

² This is why the record in *Documentary History of the Constitution* stops short of the final adjournment. *Maryland Journal*, May 2; *Gazette*, May 24, 1788.

the convention, Paca, as chairman, stated what had passed, read the thirteen amendments which had been adopted, and the three which had been the minority's ultimatum, and "assigned the reason why no report had been formally made. Though they had acceded to some of the propositions referred to them, nevertheless they could come to no agreement as to making a report."

There seems to have been some debate on the matter.¹ One of the majority of the committee is stated to have said: "If no amendments were referred to the people, their idea would be that the Constitution was perfect in the opinion of the Convention and, therefore, needed no amendment. The proposal to submit amendments was only admitted to conciliate the minority, but it might involve the convention from one amendment to another, not knowing where to stop. . . . They had agreed to decide on the whole Constitution, not upon its parts, and, if they agreed to a number of amendments, the opponents of the government would gain an advantage, by being able to represent that its friends admitted it needed amendments and was greatly defective."² The people of Maryland would think that the convention ought not to have ratified without condition, or previous adoption of amendment, and the federal forces in Virginia and the other close states would be weakened by this example of Maryland. The debate did not last long, however, for the majority were determined and would permit no delay. A vote of thanks to President Plater had been read once, while the committee was out, and a delegate now rose and moved to give this motion a second reading. The minority called for the previous question and asked that the yeas and nays be taken. The convention rejected both motions and passed the vote of thanks.

A motion was then carried "that the Convention adjourn without day" and the struggle was over. On this last motion, the vote was 47 to 27. The minority voted solidly against it and fifteen of the majority joined with them, but the predominance of the Federalists was so great, that they won easily, in spite of this defection. Daniel Carroll summed up the whole story in one sentence:³ "Mr. Johnson's Accommodating disposition and respect to his character led the majority into a situation, out of which they found some difficulty in extricating themselves." Alexander Contee Hanson, probably, was the chief mover in the majority's final policy. The opposition was so entirely led by its able members from Anne Arundel

¹ *Annapolis Gazette*, May 15; *Baltimore Gazette*, May 13, 1788.

² Bancroft, *History of the Constitution*, II. 282, says that McHenry wrote Washington that the amendments were adapted to injure the cause of Federalism in Virginia.

³ Letter to Madison, May 28, 1788.

County, that Daniel Carroll is almost correct in writing,¹ that : "If the Anne Arundel election had not taken the extraordinary turn it did, I may say there would not have been a straw of opposition, perhaps adoption would have been unanimous."

There was great rejoicing in the Federal camp over Maryland's action. The friends of the Constitution hastened to inform their friends in other states.² A great illumination³ and firing of cannon took place that Monday evening in Annapolis. A ball was given at the Assembly Room and a dinner at Mann's tavern, at which nearly two hundred persons were present. Thirteen cannon were fired at each of the thirteen toasts. The capital had sent to the convention the protagonist of the victorious forces⁴ and rejoiced in their victory.⁵ In Baltimore town, the joy was equally great.⁶ The *Gazette* had an editorial—an unusual thing—on the ratification, warmly commending it and saying : "Thus by the assent and ratification of this State, there is now the fairest prospect that the Federal Government will be established in America." On May 1, there was a great procession through the streets. It was estimated that three thousand men were there, the trades' display was large, and in the line was Joshua Barney with the mimic ship *Federalist*. This vessel is thus described : "Being the seventh ship in the line and having weathered the most dangerous cape in the voyage, she lay to under seven sails, during the repast on Federal Hill, throwing out signals and expecting the arrival of the other six." The procession formed at Philpott's Hill, adjoining the Play-house, passed through Fell's Point and then, by way of Hanover Street, arrived at Federal Hill, where a dinner was served and thirteen toasts⁷ drunk. At night there was an illumination and a ball.

¹ Letter to Madison, April 28, 1788.

² Carroll to Madison, April 28, 1788.

³ The Federal members of the convention each contributed a guinea for this purpose.

⁴ Maryland *Journal*, May 21 ; Annapolis *Gazette*, May 1, 1788.

⁵ The list of toasts is interesting : 1. The United States and Congress ; 2. Louis XVI. and the Friendly Powers of Europe ; 3. The State of Maryland and the Present Convention ; 4. The Late Federal Convention ; 5. General Washington (his portrait was exhibited and received with a general burst of applause) ; 6. Marquis LaFayette ; 7. The Memory of the Brave Officers and Soldiers who Fell in the Revolution ; 8. May Agriculture, Manufactures and Commerce Flourish in the United States ; 9. Success to Useful Learning and Arts and Science ; 10. The Late American Army and Navy ; 11. Count Rochambeau and the French Army in America ; 12. May our Public Councils be Actuated by Wisdom and Patriotism ; 13. May all States Join Heartily in Federal Government.

⁶ *Gazette*, May 6, 28. *Journal*, May 6. A note in the *Journal* calls attention to the fact that the aggregate vote in the seven state conventions is 760 to 240, or two-thirds, and that the seven states which have ratified contain 1,467,000 taxable and representable inhabitants.

⁷ The eighth was to the "Virtuous Sixty-three," who signed the ratification.

The popular interest in the celebration was such that an account of it was printed in two successive numbers of the *Journal* to supply the demand.

On May 6, four hundred people of Dorchester County¹ met at Cambridge, "to congratulate each other on the accession of Maryland to the new federal constitution and testify to their countrymen their approbation of the conduct of their delegates in the Convention." There were the usual firing of cannon and dinner, which was "free from riotous and disorderly disposition." In the evening, the "streets were crowded with admiring spectators" to see the illumination, the town being "in a perfect blaze with the lustre and brilliancy of the light."²

Other celebrations may have occurred, of which there is no record,³ and I feel sure that the general sentiment of the people was voiced by the *Baltimore Gazette*:⁴ "The general unanimity of the people of this State on the late important and interesting political question, together with the unanimity of our convention, is a most conclusive proof of their federalism. This agreement in sentiment was not the consequence of an hasty and partial investigation of the subject, but the result of mature deliberation. All the necessary information was had to give the general government a fair trial and in no instance has the State been less divided than in its adoption. The unanimity in the Convention suppressed the necessity of debate and upon a moderate computation has saved to the public the sum of £4000."

Outside of the state, the joy of the Federalists was equally great. In the South Carolina convention, a member rose and said he had opposed the Constitution, but would now vote for it, since the voice of Maryland had been decisive for its adoption.⁵ Washington wrote to Madison that Maryland's decision was a thorn "in the sides of the leaders of opposition" in Virginia, and that Maryland's "very short session will, if I mistake not, render yours less tiresome."⁶

¹ *Journal*, May 16, 1788. Col. John Eccleston was president of the day.

² The thirteen toasts here were: "1. The United States; 2. Maryland and the Convention; 3. George Washington; 4. The Memory of Greene; 5. LaFayette; 6. Memory of Fallen Officers and Troops; 7. The Philadelphia Convention; 8. The Minority of Massachusetts; 9. States that have ratified; 10. A speedy and compleat ratification; 11. Farmers, Mechanics and all virtuous citizens of America; 12. Faithful and punctual Compliances with all public and private contracts; 13. May wisdom, justice and prudence direct all our councils."

³ *Maryland Journal*, May 30, 1788.

⁴ May 9, 1788.

⁵ *Maryland Journal*, June 6, 1788.

⁶ May 2, 1788. *Writings*, XI. 259. Apparently no member of the Maryland convention favored a consultation with Virginia prior to ratification. Bancroft's *History of the Constitution*, II. 281.

The minority of Anti-Federalists were not yet silenced. On May 6, they published in the newspapers that address to the people of Maryland,¹ which is reprinted in Elliot's *Debates* and is the best known record of the convention's proceedings. In this address are found the proposed amendments. These were published, that the people "may express your sense as to such alterations as you may think proper to be made in the new Constitution." The minority remain persuaded of the importance of the alterations proposed. They "consider the proposed form of national government as very defective and that the liberty and happiness of the people will be endangered, if the system be not greatly changed and altered." It is significant, however, that not one of the fifteen Federalists who voted with the minority on the final motion to adjourn, is found among the signers of this paper.

On May 9, the papers² contain the announcement that the address of the minority misstated some facts and omitted others and that an answer from the majority will soon appear. The convention came together "without any other avowed object or wish, than to adopt the constitution without delay and then retire peaceably to their homes." This address was prepared by Hanson, but was never published. By the time that it was ready, the committee was scattered and apparently it was never shown to the other members of the majority. Hanson declared that it was prepared from a draught taken from the minutes the day after the convention adjourned, by three members of the majority in the committee, and approved as true by two more of them. In the preparation of it, Hanson was delayed by sickness and, as it was never printed, it would probably have been destroyed, had not Daniel Carroll heard of Hanson's work and asked that a copy of it be sent to Madison.³ This was done by Hanson, not that it might be published, but that it might be used, in "giving spirits to the friends of good government, or by discouraging its enemies, who may look for countenance and support from the people of Maryland." Virginia was in the midst of her great struggle and Hanson thought that perhaps it might be suggested there by the Anti-Federalists, "that the people of Maryland are dissatisfied and will join Virginia in a plausible scheme

¹ Paca signed it, and the other eleven Anti-Federalists.

² In the *Baltimore Gazette* for May 2, 9, 20 and 23, and June 6, 13 and 20 are long articles on the Constitution by "Fabius." On May 9 an Anti-Federal article is copied from a New Hampshire paper. On May 26 and 30 two Federal articles advising Virginia to ratify appear in the *Gazette*. On July 11 "Wessex" sends an Anti-Federal article. In the *Journal* for May 6, 13, and June 13 are minor articles.

³ It is now among the Madison papers in the Department of State at Washington, where I consulted it. Hanson's letter is dated June 2, 1788. I desire to express my sense of gratitude to Mr. S. M. Hamilton of that Department for his courtesy.

for a second general convention to propose an entire new plan, or propose alterations." "Such a suggestion," Hanson wrote, "would be destitute of rational grounds" and the people of Maryland would "spurn at a proposition, calculated to produce so much incurable mischief." They consider "their political salvation depends" on the Constitution's success. "All that the Maryland Convention might be ashamed of, would be that it manifested a transient inclination to adopt improper means for attaining a valuable end." "It is now attacked for not exercising assumed power, agreeable to the sentiments of a small minority and contrary to the known sense of the people." *The minority's address tries to give the public an "idea that the convention were studious to conceal the conduct of the delegates from the people of the several counties, that they precluded themselves from the means of information, and ratified the proposed plan with indecent and fatal precipitation."* The committee on amendments are accused of "deceiving the minority, effecting a premature dissolution of the body, and abandoning the dearest rights of their constituents to an arbitrary power." The purpose of the minority's address is to "persuade the people that the proceedings of the convention are not conclusive or binding."

In his reply, Hanson had tried not to "agitate the great question already determined," first by the people in the counties and second by their representatives, "chosen and convened for that express and only purpose"; but rather to free the majority "from gross and unwarrantable interpretation of their conduct." The majority may not wilfully misrepresent, but they make certain slight mistakes and omit material circumstances. Hanson's account is of great value and has been used freely in this paper.

That the Anti-Federalists tried to induce the people to consider the convention's ratification as not final¹ is seen in a long article in the *Journal* of May 16, signed "Republican." He asserts that the "common class" of people knew little of the Constitution. The two thousand copies of that document printed by order of the Assembly were too few to go far. The Annapolis paper is of small circulation, and the two Baltimore ones are never seen on the Eastern Shore, while the severe weather during the past winter prevented any newspapers from being sent over thither. Of the 25,000 voters² in the state, only 6000 voted at the election, and 4000 of

¹ Daniel Carroll writes to Madison, May 28, that the minority were trying to get signers to a memorial to the Virginia Convention, that Luther Martin said in his "tavern harangues that more than twenty members of the Convention favored Kingly government," and that Mercer maligns Daniel Carroll and "tergiversates." He regrets Johnson's falling away from the majority.

² He says *viva voce* vote is preferred to ballot by Maryland's constitution.

these votes were cast in Baltimore town and seven of the counties. The rich and wealthy worked for the Constitution to prevent the loss of their debts and, in some counties, the opposition had named no candidates. But as proof that the ratification is not final, he alleges that two successive general assemblies must authorize the adoption of the Federal Constitution, as it alters the state constitution and so must be passed in the same manner as any other amendment. In pursuance of this thought, he urges the people to choose, as delegates to the coming legislature, men opposed to the adoption of the Constitution, as they will vote to amend it. The Federalists had already taken up this matter and were especially active in trying to defeat Chase in Baltimore town.¹ His defenders used the curious argument that, when elected by Federalists in Baltimore, he would be bound to support Federal measures, as he had been to support Anti-Federal measures, when elected by Anti-Federal votes in Anne Arundel County.

The Federalists did not fail to answer the claim that the ratification was not final. The opposition had tried to show that the framers of the Constitution were "vile conspirators,"² to have the ratification in different form from that proposed at Philadelphia, and to have the convention propose amendments. Foiled in all these purposes, they clutch at a straw. Maryland *has* accepted all changes in her state constitution, by the convention's ratification. The Federalists point out that, as the other states have different provisions for amending their constitutions, an acceptance of the Anti-Federalist contention would delay the going into effect of the Constitution for four years or so.

The struggle was decided by the election for delegates, in which the Federalists won a decided victory. The presidential electors and the United States Senators chosen were Federalists, and the people of Maryland showed that they intended their ratification of the Constitution to be final. The mutterings of discontent gradually disappeared. The Anti-Federalists welcomed the proposals³ to publish the proceedings of the convention, since these would show how rashly the majority acted; but, apparently, the pamphlet never appeared and popular interest in the subject died away. The news of South Carolina's ratification was greeted in Baltimore town by firing of cannon on Federal Hill and a dinner at Mrs. Grant's, and

¹ *Maryland Journal*, May 9, June 10; *Gazette*, May 23, 27, June 20

² *Journal*, May 20. The *Gazette*, June 3, says that the changes from the Confederation to the Constitution are in the direction of centralization and cites the omission of the names of states from the preamble as proof of this.

³ *Baltimore Gazette*, June 3, 27; *Journal*, May 23. The price was to be 8/4; the reporter was Mr. Lloyd.

the same procedure was followed, with the addition of fireworks, when news came that the success of the Constitution was assured by New Hampshire's and Virginia's ratification.¹ As Maryland had begun under Hanson's able leadership, so she continued. Federal feeling was long active there, and the party organization and name were preserved in the state for years after they were discarded elsewhere. The Whig party next included the men with national feelings, and was long dominant in Maryland; and when the dark days of impending disruption came, the state remained faithful to the Union. The foundation of her national spirit was deeply laid.

BERNARD C. STEINER.

WILLIAM PACA'S PROPOSED AMENDMENTS.²

That it be declared that all Persons entrusted with the Legislative or Executive Powers of Government are the Trustees and Servants of the Public and as such accountable for their Conduct.

Wherefore, whenever the Ends of Government are perverted and public Liberty manifestly endangered and all other Means of Redress are ineffectual, the People may, and of right ought, to object to, reform the old, or establish a new Government—That the Doctrine of Non-resistance against arbitrary Power and Oppression is absurd, slavish and destructive of the Good and Happiness of Mankind—That it be declared, That every Man hath a right to petition the Legislature, for the Redress of Grievances, in a peaceable and orderly Manner—That in all criminal Prosecutions every Man hath a Right to be informed of the Accusation, to have a Copy of the Indictment or charge in due Time (if required) to prepare for his Defense, to be allowed Council, to be confronted with the Witness against him, to have Process for his Witnesses, to examine the Witnesses for and against him on Oath, and to a speedy trial by an impartial Jury.

That no Freeman ought to be taken, or imprisoned, or deprived of his Freehold, Liberties and Privileges, or outlawed or exiled, or in any manner destroyed or deprived of his Life, Liberty, or Property, but by the lawful Judgment of his Peers, or by the Law of the Land. That no Power of Suspending Laws, or the Execution of Laws, unless derived from the Legislature, ought to be exercised or allowed.

That all Warrants, without Oath, or Affirmation of a Person conscientiously scrupulous of taking an Oath, to search suspected Places, to seize any Person, or his Property, are grievous and oppressive; and all general Warrants, to search suspected Places, or to apprehend any Person suspected, without describing the Place or Person in special, are dangerous and ought not to be granted.

That there be no Appeal to the Supreme Court of Congress in a Criminal Case. Congress shall have no Power to alter or change the

¹ *Gazette*, June 3, July 1.

² *Maryland Journal*, April 29, 1788.

Regulations respecting the Times, Places or Manner of holding Elections for Senators or Representatives.

All Imports and Duties laid by Congress, shall be placed to the Credit of the State in which the same shall be collected, and shall be deducted out of such State's Quota of the Common or general Expences of Government. No Member of Congress shall be eligible to any Office of Trust or Profit under Congress during the Time for which he shall be chosen.

That there be no National Religion established by Law but that all Persons be equally entitled to Protection in their religious Liberty.

That Congress shall not lay direct Taxes on Land or other Property without a previous Requisition of the respective Quotas of the States and a failing within a Limited Time to comply therewith.

In all cases of Trespasses, Torts, Abuses of Power, personal Wrongs and Injuries done on Land or within the Body of a County the Party Injured shall be entitled to Trial by Jury, in the State where the Offence shall be committed ; and the State Courts in such cases shall have concurrent Jurisdiction with the Federal Courts ; and there shall be no Appeal, excepting on Matters of Law.

That the Supreme Federal Court shall not admit of Fictions, to extend its Jurisdiction ; nor shall Citizens of the same State, having Controversies with each other be suffered to make collusive Assignments of their Rights, to Citizens of another State for the Purpose of defeating the Jurisdiction of the State Courts ; nor shall any Matter or Question already determined in the State Courts, be revived or agitated in the Federal Courts ; that there be no Appeal from Law or Fact to the Supreme Court where the Claim or Demand does not exceed Three Hundred Pounds Stirling. That no standing Army shall be kept up in Time of Peace unless with the Consent of Three Fourths of the Members of each Branch of Congress : Nor shall Soldiers in Time of Peace be Quartered upon private Houses, without the Consent of the Owners.

No Law of Congress or Treaties shall be effectual to repeal or abrogate the Constitutions or Bills of Rights of the States or any of them or any part of the said Constitutions or Bills of Rights.

[Militia not to be subject to the Rules of Congress nor marched out of the State without consent of the Legislature of such State.

That Congress have no Power to lay a Poll Tax.

That the People have a Right to Freedom of Speech, of writing and publishing their Sentiments and therefore that the Freedom of the Press ought not to be restrained and the Printing Presses ought to be free to examine the Proceedings of Government, and the Conduct of its Officers.

That Congress shall exercise no Power but what is expressly delegated by this Constitution.

That the President shall not command the Army, in Person, without the Consent of Congress.